

# House File 429 - Introduced

HOUSE FILE 429

BY ALONS

## A BILL FOR

1 An Act relating to gubernatorial appointments to fill a vacancy  
2 on the court of appeals.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 46.12, Code 2011, is amended to read as  
2 follows:

3 **46.12 Notification of vacancy and resignation.**

4 1. When a vacancy occurs or will occur within one hundred  
5 twenty days in the supreme court, ~~the court of appeals,~~ or  
6 district court, the state commissioner of elections shall  
7 forthwith so notify the chairperson of the proper judicial  
8 nominating commission. The chairperson shall call a meeting  
9 of the commission within ten days after such notice; if the  
10 chairperson fails to do so, the chief justice shall call such  
11 meeting.

12 2. When a vacancy occurs or will occur within one hundred  
13 twenty days in the court of appeals, the state commissioner  
14 of elections shall notify the governor of the vacancy. The  
15 governor shall make the appointment to fill the vacancy  
16 pursuant to section 46.14A.

17 3. When a judge of the supreme court, court of appeals, or  
18 district court resigns, the judge shall submit a copy of the  
19 resignation to the state commissioner of elections at the time  
20 the judge submits the resignation to the governor; and when  
21 a judge of the supreme court, court of appeals, or district  
22 court dies, the clerk of district court of the county of the  
23 judge's residence shall in writing forthwith notify the state  
24 commissioner of elections of such fact.

25 Sec. 2. Section 46.14A, Code 2011, is amended to read as  
26 follows:

27 **46.14A Court of appeals — nominees appointment.**

28 Vacancies in the court of appeals shall be filled by  
29 appointment by the governor ~~from a list of nominees submitted~~  
30 ~~by the state judicial nominating commission. Three nominees~~  
31 ~~shall be submitted for each vacancy~~ subject to confirmation  
32 by the senate. Nominees A person appointed to the court  
33 of appeals shall have the qualifications prescribed for  
34 nominees to the supreme court. The governor shall make the  
35 appointment to fill a vacancy on the court of appeals within

1 one hundred twenty days of receiving notice that such a vacancy  
 2 has occurred. The senate shall vote on confirmation during  
 3 the regular session of the general assembly, if the governor  
 4 appoints the person during the regular session of the general  
 5 assembly. If the appointment is made after the regular session  
 6 of the general assembly, the senate shall vote on confirmation  
 7 during the next regular session of the general assembly. If  
 8 the senate fails to confirm an appointment to fill the vacancy,  
 9 the governor shall make another appointment to the court of  
 10 appeals subject to confirmation by the senate until the vacancy  
 11 is filled.

12     Sec. 3. Section 46.15, subsection 1, Code 2011, is amended  
 13 to read as follows:

14     1. All appointments to the supreme court ~~and court of~~  
 15 ~~appeals~~ shall be made from the nominees of the state judicial  
 16 nominating commission, and all appointments to the district  
 17 court shall be made from the nominees of the district judicial  
 18 nominating commission.

19     Sec. 4. Section 46.16, subsection 1, paragraph a, Code 2011,  
 20 is amended to read as follows:

21     a. The initial term of office of judges of the supreme  
 22 court, ~~court of appeals,~~ and district court shall be for one  
 23 year after appointment and until January 1 following the next  
 24 judicial election after expiration of such year; ~~and.~~

25     Sec. 5. Section 46.16, subsection 1, Code 2011, is amended  
 26 by adding the following new paragraph:

27     NEW PARAGRAPH. *Ob.* The initial term of office of judges of  
 28 the court of appeals shall be for one year after confirmation  
 29 and until January 1 following the next judicial election after  
 30 expiration of such year.

31     Sec. 6. Section 602.5102, subsection 2, Code 2011, is  
 32 amended to read as follows:

33     2. Judges of the court of appeals shall be ~~nominated and~~  
 34 appointed and shall stand for retention in office as provided  
 35 in chapter 46. Judges of the court of appeals shall qualify

1 for office as provided in chapter 63.

2     Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
3 immediate importance, takes effect upon enactment.

4                                 EXPLANATION

5     This bill relates to gubernatorial appointments to fill a  
6 vacancy on the court of appeals.

7     The bill provides that the governor shall appoint a person to  
8 fill a vacancy that occurs in the court of appeals, subject to  
9 senate confirmation. Current law provides the state judicial  
10 nominating commission shall nominate persons for appointment by  
11 the governor to the court of appeals.

12     The bill requires that a person appointed to the court of  
13 appeals have the same qualifications prescribed for nominees to  
14 the supreme court.

15     If a vacancy occurs in the court of appeals, the bill  
16 requires the governor to make the appointment to fill the  
17 vacancy within 120 days of receiving notification that a  
18 vacancy has occurred. The bill requires the senate to vote  
19 on confirmation during the regular session of the general  
20 assembly, if the governor appoints the person during the  
21 regular session of the general assembly. If the appointment  
22 to fill the vacancy on the court of appeals is made after the  
23 regular session of the general assembly, the senate shall vote  
24 on confirmation during the next regular session of the general  
25 assembly. If the senate fails to confirm the appointment to  
26 fill the vacancy, the governor shall make another appointment  
27 to the court of appeals subject to confirmation by the senate  
28 until the vacancy is filled.

29     The bill establishes the initial term of a court of appeals  
30 judge at one year after confirmation and until January 1  
31 following the next judicial election after expiration of such  
32 year. The regular six-year term of a court of appeals judge  
33 after retention is unaffected by the bill.

34     The bill takes effect upon enactment.